



CITY of LAGUNA WOODS

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April 18, 2008

City Council Agendas > City Council Agendas 2005

Minutes - June 15, 2005

(By: | Composed: 08/12/05 | Modified: 08/12/05)

Current Issue
WOODWORKS
Newsletter



CITY OF LAGUNA WOODS CALIFORNIA
CITY COUNCIL MINUTES
REGULAR MEETING
June 15, 2005
2:00 P.M.

Committees
Current Budget

General Plan

I. CALL TO ORDER

Mayor Ross called the Regular Meeting of the City Council of the City of Laguna Woods to order at 2:00 p.m.

II. FLAG SALUTE

Councilmember Ring led the flag salute.

III. ROLL CALL

COUNCILMEMBERS PRESENT: Hack, Ring, Bouer, Ross

ABSENT: Robbins

STAFF PRESENT: City Manager Keane; Assistant City Attorney McEwen; City Clerk Condon; Assistant City Manager Reilly

IV. PRESENTATIONS

None

V. CITY PROCLAMATIONS

Moved by Councilmember Ring, seconded by Councilmember Hack, and carried unanimously to approve Proclamation 5.1.

5.1 Proclamation - Relay for Life Day - June 11-12, 2005

VI. CONSENT CALENDAR

Moved by Mayor Pro Tem Bouer, seconded by Councilmember Ring, and carried unanimously to approve Consent Calendar items 6.1 through 6.8.

6.1 Approved City Council minutes from the regular meeting of May 18, 2005 and the adjourned regular meeting of June 1, 2005.

6.2 Approved the reading by title of all

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"South Orange County Integrated Regional Water Management Plan", entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA WOODS, CALIFORNIA, ACCEPTING AND SUPPORTING THE ADOPTION OF THE SOUTH ORANGE COUNTY INTEGRATED REGIONAL WATER MANAGEMENT PLAN

VII. PUBLIC HEARINGS

7.1 Automated Red Light Photo Enforcement

Assistant City Manager Reilly introduced Lt. Bob Hogbin, the City's Police Services Chief, Tom Frank, an engineering consultant hired by the City, and Seth Fogel from Redflex Traffic Systems. He advised a Request for Proposal for installation of red light photo enforcement systems for the intersections of Moulton Parkway/El Toro Road and Moulton Parkway/Gate 12 was issued and proposals were received from Nestor Traffic Systems and Redflex Traffic Systems. Assistant City Manager Reilly advised a panel comprised of Lt. Hogbin, Bob Miller, Chair, Transportation Advisory Committee, Tom Frank and he interviewed and evaluated each firm. The panel and the Transportation Advisory Committee both unanimously agreed Redflex Traffic Systems would provide the more effective red light photo enforcement system. Assistant City Manager Reilly discussed the procedure to be followed and the 30-day warning period.

Assistant Manager Reilly discussed the monthly lease/service cost per approach, which would be paid from red light photo citation revenues. If the revenue is more than the equipment/service lease, it could fund the cost of a half-time deputy which is required to approve the citations and appear in court. The monthly fee would be reduced to match revenues if necessary.

Councilmember Ring questioned and discussion was held on the cost of red light tickets.

The Public Hearing was opened.

There were no requests to speak.

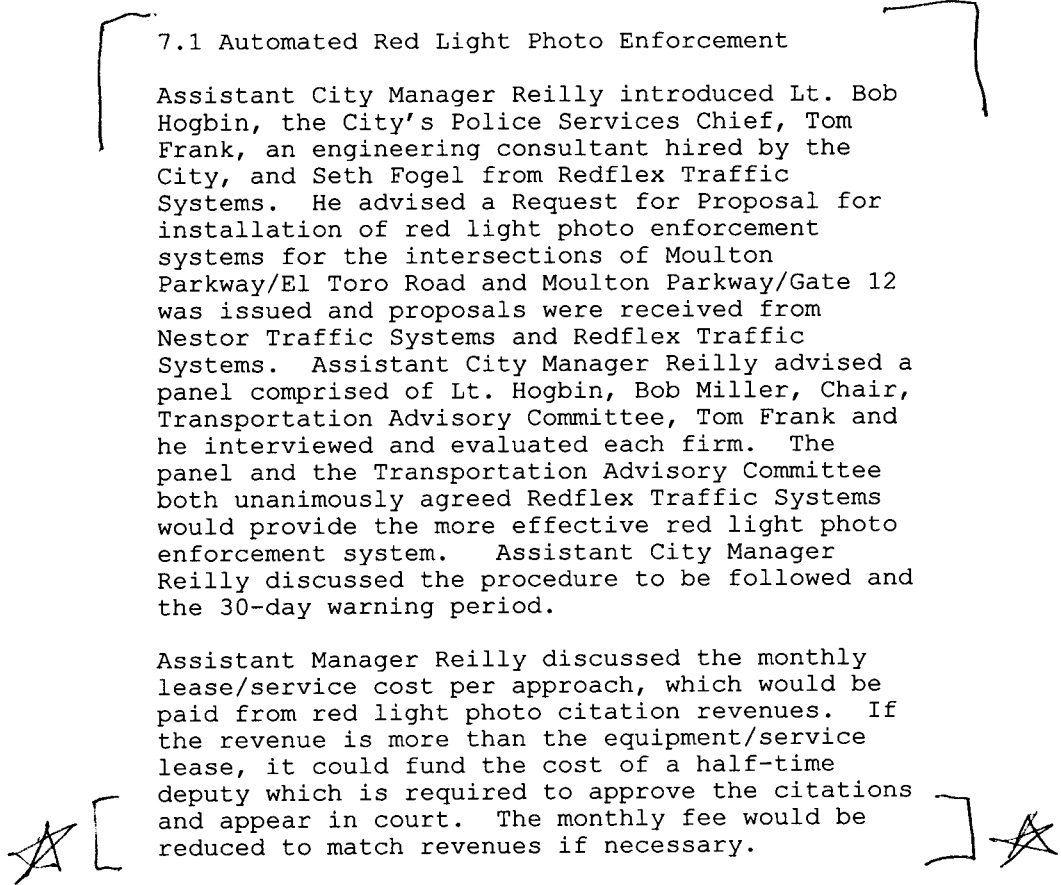
City Manager Keane advised there were no written communications, but staff had discussed the issue at various meetings and had verbal conversations with residents. One resident had expressed opposition.

Mary Wall, resident, expressed concern about traffic at the El Toro and Avenida Seville light. Assistant Manager Reilly and Lt. Hogbin discussed the directed enforcement over the last two years.

The Public Hearing was closed.

Moved by Councilmember Hack, seconded by Councilmember Ring, and carried unanimously:

- A. Approved the implementation of automated



red light photo enforcement systems at the intersections of Moulton Parkway and El Toro Road and Moulton Parkway and Gate 12.

B. Approved an agreement with Redflex Traffic Systems to install and operate automated red light photo enforcement systems at designated intersections, and authorized the City Manager to execute the agreement, subject to approval as to form by the City Attorney.

7.2 Acquisition of Laguna Woods City Hall Property

City Manager Keane advised that Council previously directed staff to pursue acquisition of the City Hall property. A formal offer was presented to the property owner and a letter was received declining the offer. City Manager Keane discussed the procedural steps required to acquire interest in property by eminent domain. The City is required to hold a Public Hearing and afford the property owner the right to speak. The Public Hearing was scheduled for June 15 and the owner notified the City they would be out of the country and requested a continuance. Staff recommended Council continue the Public Hearing until July 20, 2005.

The Public Hearing was opened.

There were no requests to speak.

Moved by Councilmember Hack, seconded by Councilmember Ring and carried 3-0-1-1 to continue the public hearing until July 20, 2005.

Roll Call

Ayes:	Councilmember:	Hack, Ring, Ross
Noes:	Councilmember:	None
Absent:	Councilmember:	Robbins
Abstain:	Councilmember:	Bouer

Mayor Pro Tem Bouer advised he abstained as he felt there would not be any benefit waiting a month for the property owner to advise he did not intend to cooperate.

City Manager Keane briefly discussed the procedural steps to acquire the property.

Mayor Pro Tem Bouer advised he would like to change his vote.

Moved by Councilmember Hack, seconded by Councilmember Ring, and carried 4-0 to continue the public hearing to July 20, 2005.

Roll Call

Ayes:	Councilmember:	Hack, Ring, Bouer, Ross
Noes:	Councilmember:	None
Absent:	Councilmember:	Robbins

VIII. CITY COUNCIL

None



CITY of LAGUNA WOODS

Brenda B. Ross
Mayor

October 20, 2005

Robert Bouer
Mayor Pro Tem

Bert Hack
Councilmember

Milt Robbins
Councilmember

Bob Ring
Councilmember

Leslie A. Keane
City Manager

RE: Public Records Request

*see 1.27 cost rec'd Exh D
30 day warnings
on 1st 2 sep
only*

Enclosed is a copy of the Redflex Traffic Systems, Inc. contract per your request and a receipt for your payment.

Sincerely,

Susan M. Condon
City Clerk

No Dumping in Stormdrains!

City of Laguna Woods
24264 El Toro Road
Laguna Woods CA 92653

Date: 10/20/2005 Time: 4:47pm
Receipt Number: 100 / 12204
Clerk: SC

ITEM	REFERENCE	AMOUNT
COPY	31 PAGES & POSTAGE	9.26
	Total:	9.26
Check	4641	9.26
	Change:	0.00

Thank You!

**AGREEMENT BETWEEN THE CITY OF LAGUNA WOODS
AND REDFLEX TRAFFIC SYSTEMS, INC. FOR
AUTOMATED RED LIGHT PHOTO ENFORCEMENT SYSTEMS**

This Agreement ("Agreement") is made this 11 day of July, 2005 by and between the City of Laguna Woods, a municipal corporation ("City"), and Redflex Traffic Systems, Inc. ("Contractor").

RECITALS

WHEREAS, Contractor has exclusive knowledge, possession and ownership of certain equipment, licenses, applications, and citation processes related to digital red light photo enforcement cameras;

WHEREAS, the City desires to engage the services of Contractor to provide certain equipment, processes and back office services so that sworn Sheriff's officers and/or employees of the Sheriff's Department under contract to the City are able to monitor, identify and enforce red light running violations;

WHEREAS, it is a mutual objective of both the City and Contractor to reduce the incidence of vehicle collisions at traffic intersections that will be monitored pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration received, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Definitions.** In this Agreement, the words and phrases below shall have the following meanings:
 - 1.1. "Authorized Officer" means the Orange County Sheriff Department's Project Manager or such other individual(s) as the City shall designate to review Potential Violations and to authorize the Issuance of Citations in respect thereto, and in any event, a sworn officer or employee of the Sheriff's Department under contract to the City.
 - 1.2. "Authorized Violation" means each Potential Violation in the Violation Data for which authorization to issue a citation in the form of an Electronic Signature is given by the Authorized Officer by using the Contractor System.
 - 1.3. "Citation" means the notice of a Violation, which is mailed or otherwise delivered by Contractor to the violator on the appropriate Enforcement Documentation in respect of each Authorized Violation.
 - 1.4. "Confidential Information" means, with respect to any Person, any information, matter or thing of a secret, confidential or private nature, whether or not so labeled, which is considered confidential under local, state, or federal laws, or

which is connected with such Person's business or methods of operation or concerning any of such Person's suppliers, licensors, licensees, City's or others with whom such Person has a business relationship, and which has current or potential value to such Person or the unauthorized disclosure of which could be detrimental to such Person, including but not limited to:

- 1.4.1. Matters of a business nature, including but not limited to information relating to development plans, costs, finances, marketing plans, data, procedures, business opportunities, marketing methods, plans and strategies, the costs of construction, installation, materials or components, the prices such Person obtains or has obtained from its clients or City's, or at which such Person sells or has sold its services; and
- 1.4.2. Matters of a technical nature, including but not limited to product information, trade secrets, know-how, formulae, innovations, inventions, devices, discoveries, techniques, formats, processes, methods, specifications, designs, patterns, schematics, data, access or security codes, compilations of information, test results and research and development projects. For purposes of this Agreement, the term "trade secrets" shall mean the broadest and most inclusive interpretation of trade secrets as defined by §3426.1(d) of the California Civil Code (the "Uniform Trade Secrets Act") and cases interpreting the scope of the Uniform Trade Secrets Act.
- 1.4.3. Notwithstanding the foregoing, Confidential Information will not include information that: (i) was generally available to the public or otherwise part of the public domain at the time of its disclosure, (ii) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission by any party hereto in breach of this Agreement, (iii) was subsequently lawfully disclosed to the disclosing party by a person other than a party hereto, (iv) was required by a court of competent jurisdiction to be described, or (v) was required by applicable state law to be described.
- 1.5. "Designated Intersection Approaches" means the Intersection Approaches set forth on Exhibit A attached hereto, and any such additional Intersection Approaches as the City may designate from time to time.
- 1.6. "Electronic Signature" means the method through which the Authorized Officer indicates his or her approval of the issuance of a Citation in respect of a Potential Violation using the Contractor System.
- 1.7. "Enforcement Documentation" means the necessary and appropriate documentation related to the Redlight Photo Enforcement Program, including but not limited to warning letters, citation notices (using the specifications of the Judicial Council and the Orange County Sheriffs Department), a numbering sequence for use on all citation notices (in accordance with applicable court rules), instructions to accompany each issued Citation (including in such instructions a description of basic court procedures, payment options and information regarding the viewing of images and data collected by the Contractor System), chain of custody records, criteria regarding operational policies for

processing Citations (including with respect to coordinating with the Department of Motor Vehicles), and technical support documentation for applicable court and judicial officers.

- 1.8. "Equipment" means any and all cameras, sensors, equipment, components, products, software and other tangible and intangible property relating to the Contractor System, including but not limited to all camera systems, housings and poles.
- 1.9. "Fine" means a monetary sum assessed for Citation, including but not limited to bail forfeitures, but excluding suspended fines.
- 1.10. "Governmental Authority" means any domestic or foreign government, governmental authority, court, tribunal, agency or other regulatory, administrative or judicial agency, commission or organization, and any subdivision, branch or department of any of the foregoing.
- 1.11. "Installation Date" means the date on which Contractor completes the construction and installation of at least two (2) Intersection Approaches in accordance with the terms of this Agreement so that such Intersection Approach is operational for the purposes of functioning with the Redlight Photo Enforcement Program.
- 1.12. "Intellectual Property" means, with respect to any Person, any and all now known or hereafter known tangible and intangible (a) rights associated with works of authorship throughout the world, including but not limited to copyrights, moral rights and mask-works, (b) trademark and trade name rights and similar rights, (c) trade secrets rights, (d) patents, designs, algorithms and other industrial property rights, (e) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license, or otherwise, and (f) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing), of such Person.
- 1.13. "Intersection Approach" means a conduit of travel with up to six (6) contiguous lanes from the curb (e.g., northbound, southbound, eastbound or westbound) on which at least one (1) digital, rear shot multiple image color camera and at least one (1) digital face camera, together with all other components of the Contractor System, including the System have been installed by Contractor and are operating for the purposes of facilitating Redlight Photo Enforcement by the City.
- 1.14. "Operational Period" means the period of time during the Term, commencing on the Installation Date, during which the Redlight Photo Enforcement Program is functional in order to permit the identification and prosecution of Violations at the Designated Intersection Approaches by the Authorized Officer and the issuance of Citations for such approved Violations using the Contractor System.
- 1.15. "Person" means a natural individual, company, Governmental Authority, partnership, firm, corporation, legal entity or other business association.
- 1.16. "Project Manager" means the official appointed by the City in accordance with this Agreement, which shall initially be the Assistant City Manager, or such person as the City Manager shall designate by providing written notice thereof to Contractor from time to time. The Project Manager shall be responsible for overseeing the installation of the Intersection Approaches and the implementation

of the Redlight Photo Enforcement Program, and which manager shall have the power and authority to make management decisions relating to the City's obligations pursuant to this Agreement, including but not limited to change order authorizations, subject to any limitations set forth in the City's charter or other organizational documents of the City or by the City Council or other governing body of the City.

- 1.17. "Potential Violation" means, with respect to any motor vehicle passing through a Designated Intersection Approach, the data collected by the Contractor System with respect to such motor vehicle, which data shall be processed by the Contractor System for the purposes of allowing the Authorized Officer to review such data and determine whether a Violation has occurred.
- 1.18. "Proprietary Property" means, with respect to any Person, any written or tangible property owned or used by such Person in connection with such Person's business, whether or not such property is copyrightable or also qualifies as Confidential Information, including without limitation products, samples, equipment, files, lists, books, notebooks, records, documents, memoranda, reports, patterns, schematics, compilations, designs, drawings, data, test results, contracts, agreements, literature, correspondence, spread sheets, computer programs and software, computer print outs, other written and graphic records and the like, whether originals, copies, duplicates or summaries thereof, affecting or relating to the business of such Person, financial statements, budgets, projections and invoices.
- 1.19. "Contractor Marks" means all trademarks registered in the name of Contractor or any of its affiliates, such other trademarks as are used by Contractor or any of its affiliates on or in relation to Redlight Photo Enforcement at any time during the Term this Agreement, service marks, trade names, logos, brands and other marks owned by Contractor, and all modifications or adaptations of any of the foregoing.
- 1.20. "Contractor Project Manager" means the project manager appointed by Contractor in accordance with this Agreement by designating such person through written notice thereof to the City from time to time, who shall be responsible for overseeing the construction and installation of the Designated Intersection Approaches and the implementation the Redlight Photo Enforcement Program, and who shall have the power and authority to make management decisions relating to Contractor's obligations pursuant to this Agreement, including but not limited to change-order authorizations.
- 1.21. "Contractor System" means, collectively, the Redlight Photo Enforcement Program, and all of the other equipment, flash units, applications, back office processes and digital red light traffic enforcement cameras, sensors, components, products, software and other tangible and intangible property relating thereto.
- 1.22. "Redlight Photo Enforcement Program" means the process by which the monitoring, identification and enforcement of Violations is facilitated by the use of certain equipment, applications and back office processes of Contractor, including but not limited to cameras, flashes, central processing units, signal controller interfaces and detectors (whether loop, radar, video sensor or other)

that, collectively, are capable of measuring Violations and recording such Violation data in the form of photographic images of motor vehicles and/or their drivers.

- 1.23. "Redlight Violation Criteria" means the standards and criteria by which Potential Violations will be evaluated by the Authorized Officer, which standards and criteria shall include, but are not limited to, the duration of time that a traffic light must remain red prior to a Violation being deemed to have occurred, and the location(s) in an intersection which a motor vehicle must pass during a red light signal prior to being deemed to have committed a Violation, all of which shall be in compliance with all applicable laws, rules and regulations of Governmental Authorities.
 - 1.24. "Traffic Signal Controller Boxes" means the signal controller interface and detector, including but not limited to the radar or video loop, as the case may be.
 - 1.25. "Violation" means any traffic violation contrary to the terms of the Vehicle Code or any applicable rule, regulation or law of any other Governmental Authority, including but not limited to operating a motor vehicle contrary to traffic signals, and operating a motor vehicle without displaying a valid license plate or registration.
 - 1.26. "Violations Data" means the images and other Violations data gathered by the Contractor System at the Designated Intersection Approaches and confidential information obtained from the Department of Motor Vehicles in connection with any violation recorded by the Contractor System.
 - 1.27. "Warning Period" means the period of thirty (30) days after the Installation Date.
2. **Term.** The term of this Agreement shall commence as of the date hereof and shall continue for a period of five (5) years ("Initial Term"). The City shall have the right, but not the obligation, to extend the term of this Agreement for up to one (1) additional five (5) year period or up to two (2) additional consecutive one (1) year periods following the expiration of the Initial Term (each, a "Renewal Term" and collectively with the Initial Term, the "Term"). The City may exercise the right to extend this Agreement for a Renewal Term by providing written notice to Contractor not less than thirty (30) days prior to the last day of the Initial Term or the Renewal Term, as the case may be.
 3. **Services.** Contractor shall provide the Redlight Photo Enforcement Program to the City with respect to the Designated Intersection Approaches, in each case in accordance with the terms and provisions set forth in this Agreement.
 - 3.1. **Installation.** With respect to the construction of the Designated Intersection Approaches and the installation of the Contractor System at such Designated Intersection Approaches, the City and Contractor shall have the respective rights and obligations set forth on Exhibit B attached hereto.
 - 3.2. **Maintenance.** With respect to the maintenance of the Contractor System at the Designated Intersection Approaches, the City and Contractor shall have the respective rights and obligations set forth on Exhibit C attached hereto.
 - 3.3. **Violation Processing.** During the Operational Period, Violations shall be processed as follows:
 - 3.3.1. All Violations Data shall be stored on the Contractor System;

- 3.3.2. The Contractor System shall process Violations Data gathered from the Designated Intersection Approaches into a format capable of review by the Authorized Officer via the Contractor System;
- 3.3.3. The Contractor System shall be accessible by the Authorized Officer and Project Manager through a virtual private network in encrypted format by use of a confidential password on any computer equipped with a high-speed internet connection and a web browser;
- 3.3.4. Contractor shall provide the Authorized Officer and Project Manager with access to the Contractor System for the purposes of reviewing the pre-processed Violations Data within seven (7) days of the gathering of the Violation Data from the applicable Designated Intersection Approach;
- 3.3.5. The City shall cause the Authorized Officer to review the Violations Data and to determine whether a citation shall be issued with respect to each Potential Violation captured within such Violation Data, and transmit each such determination in the form of an Electronic Signature to Contractor using the software or other applications or procedures provided by Contractor on the Contractor System for such purpose, and Contractor HEREBY ACKNOWLEDGES AND AGREES THAT THE DECISION TO ISSUE A CITATION SHALL BE THE SOLE, UNILATERAL AND EXCLUSIVE DECISION OF THE AUTHORIZED OFFICER AND SHALL BE MADE IN SUCH AUTHORIZED OFFICER'S SOLE DISCRETION ("CITATION DECISION"), AND IN NO EVENT SHALL Contractor HAVE THE ABILITY OR AUTHORIZATION TO MAKE A CITATION DECISION;
- 3.3.6. With respect to each Authorized Violation, Contractor shall print and mail a Citation within five (5) days after Contractor's receipt of such authorization; provided, however, during the Warning Period, warning violation notices shall be issued in respect of all Authorized Violations;
- 3.3.7. The City shall track the collection of Fines assessed on each Citation and complete and accurate records shall be maintained by the City with respect to each such Citation;
- 3.3.8. Contractor shall provide a toll-free telephone number for the purposes of answering citizen inquiries, responding to complaints and scheduling appointments during which recipients of Citations may view the applicable Violations Data, and Contractor shall provide necessary personnel for such purpose;
- 3.3.9. Contractor shall permit the Authorized Officer and Project Manager to generate monthly reports using the Contractor Standard Report System.
- 3.3.10. Upon Contractor's receipt of a written request from the City and in addition to the Standard Reports, Contractor shall provide, without cost to the City, reports regarding the processing and issuance of Citations, the maintenance and downtime records of the Designated Intersection Approaches and the functionality of the Contractor System with respect thereto to the City in such format and for such periods as the City may

reasonably request; provided, however, Contractor shall not be obligated to provide in excess of twelve (12) such reports in any given twelve (12) month period without cost to the City;

3.3.11. Upon the City's receipt of a written request from Contractor, the City shall provide, without cost to Contractor, reports regarding the prosecution of Citations and the collection of fines, fees and other monies in respect thereof in such format and for such periods as Contractor may reasonably request; provided, however, the City shall not be obligated to provide in excess of twelve (12) such reports in any given twelve (12) month period without cost to Contractor;

3.3.12. During the four (4) month period following the Installation Date and upon Contractor's receipt of a written request from the City at least fourteen (14) calendar days in advance of court proceeding, Contractor shall provide expert witnesses for use by the City in prosecuting Violations; provided, however, the City shall use reasonable best efforts to seek judicial notice in lieu of requiring Contractor to provide such expert witnesses; and

3.3.13. During the four (4) month period following the Installation Date, and throughout the term of this Agreement, Contractor shall provide such training to police personnel as shall be reasonably necessary in order to allow such personnel to act as expert witnesses on behalf of the City with respect to the Redlight Enforcement Program.

3.4. Prosecution and Collection; Compensation. The City shall diligently prosecute Citations and the collection of all Fines in respect thereof, and Contractor shall have the right to receive, and the City shall be obligated to pay, the compensation set forth on Exhibit D attached hereto.

3.5. Other Rights and Obligations. During the Term, in addition to all of the other rights and obligations set forth in this Agreement, Contractor and the City shall have the respective rights and obligations set forth on Exhibit E attached hereto.

3.6. Change Orders. The City may from time to time request changes to the work required to be performed or the addition of products or services to those required pursuant to the terms of this Agreement by providing written notice thereof to Contractor, setting forth in reasonable detail the proposed changes (a "Change Order Notice"). Upon Contractor's receipt of a Change Order Notice, Contractor shall deliver a written statement describing the effect, if any, the proposed changes would have on the pricing terms set forth in Exhibit D ("Change Order Proposal"), which Change Order Proposal shall include (i) a detailed breakdown of the charge and schedule effects, (ii) a description of any resulting changes to the specifications and obligations of the parties, (iii) a schedule for the delivery and other performance obligations, and (iv) any other information relating to the proposed changes reasonably requested by the City. Following the City's receipt of the Change Order Proposal, the parties shall negotiate in good faith and agree to a plan and schedule for implementation of the proposed changes, the time, manner and amount of payment or price increases or decreases, as the case may be, and any other matters relating to the proposed changes; provided, however, in the event that any proposed change involves only the addition of equipment or

services to the existing Designated Intersection Approaches, or the addition of Intersection Approaches to be covered by the terms of this Agreement, to the maximum extent applicable, the pricing terms set forth in Exhibit D shall govern. Any failure of the parties to reach agreement with respect to any of the foregoing as a result of any proposed changes shall not be deemed to be a breach of this Agreement, and any disagreement shall be resolved in accordance with Section 10.

4. License; Reservation of Rights.

- 4.1. License. Subject to the terms and conditions of this Agreement, Contractor hereby grants the City, and the City hereby accepts from Contractor upon the terms and conditions herein specified, a non-exclusive, non-transferable license during the Term of this Agreement to: (a) solely within the City of Laguna Woods, access and use the Contractor System for the sole purpose of reviewing Potential Violations and authorizing the issuance of Citations pursuant to the terms of this Agreement, and to print copies of any content posted on the Contractor System in connection therewith, (b) disclose to the public (including outside of the City of Laguna Woods) that Contractor is providing services to the City in connection with Redlight Photo Enforcement Program pursuant to the terms of this Agreement, and (c) use and display the Contractor Marks on or in marketing, public awareness or education, or other publications or materials relating to the Redlight Photo Enforcement Program, so long as any and all such publications or materials are approved in advance by Contractor.
- 4.2. Reservation of Rights. The City hereby acknowledges and agrees that: (a) Contractor is the sole and exclusive owner of the Contractor System, the Contractor Marks, all Intellectual Property arising from or relating to the Contractor System, and any and all related Equipment, (b) the City neither has nor makes any claim to any right, title or interest in any of the foregoing, except as specifically granted or authorized under this Agreement, and (c) by reason of the exercise of any such rights or interests of City pursuant to this Agreement, the City shall gain no additional right, title or interest therein.
- 4.3. Restricted Use. The City hereby covenants and agrees that it shall not (a) make any modifications to the Contractor System, including but not limited to any Equipment, (b) alter, remove or tamper with any Contractor Marks, (c) use any of the Contractor Marks in any way which might prejudice their distinctiveness, validity or the goodwill of Contractor therein, (d) use any trademarks or other marks other than the Contractor Marks in connection with the City's use of the Contractor System pursuant to the terms of this Agreement without first obtaining the prior consent of Contractor, or (e) disassemble, decompile or otherwise perform any type of reverse engineering to the Contractor System, the Contractor System, including but not limited to any Equipment, or to any, Intellectual Property or Proprietary Property of Contractor, or cause any other Person to do any of the foregoing.

- 4.4. Protection of Rights. Contractor shall have the right to take whatever action it deems necessary or desirable to remedy or prevent the infringement of any Intellectual Property of Contractor, including without limitation the filing of applications to register as trademarks in any jurisdiction any of the Contractor Marks, the filing of patent application for any of the Intellectual Property of Contractor, and making any other applications or filings with appropriate Governmental Authorities. The City shall not take any action to remedy or prevent such infringing activities, and shall not in its own name make any registrations or filings with respect to any of the Contractor Marks or the Intellectual Property of Contractor without the prior written consent of Contractor.
- 4.5. Infringement. The City shall use its reasonable best efforts to give Contractor prompt notice of any activities or threatened activities of any Person of which it becomes aware that infringes or violates the Contractor Marks or any of Contractor's Intellectual Property or that constitute a misappropriation of trade secrets or act of unfair competition that might dilute, damage or destroy any of the Contractor Marks or any other Intellectual Property of Contractor. Contractor shall have the exclusive right, but not the obligation, to take action to enforce such rights and to make settlements with respect thereto. In the event that Contractor commences any enforcement action under this Section 4.5, then the City shall render to Contractor such reasonable cooperation and assistance as is reasonably requested by Contractor, and Contractor shall be entitled to any damages or other monetary amount that might be awarded after deduction of actual costs; provided, that Contractor shall reimburse the City for any reasonable costs incurred in providing such cooperation and assistance.
- 4.6. Infringing Use. The City shall give Contractor prompt written notice of any action or claim action or claim, whether threatened or pending, against the City alleging that the Contractor Marks, or any other Intellectual Property of Contractor, infringes or violates any patent, trademark, copyright, trade secret or other Intellectual Property of any other Person, and the City shall render to Contractor such reasonable cooperation and assistance as is reasonably requested by Contractor in the defense thereof; provided, that Contractor shall reimburse the City for any reasonable costs incurred in providing such cooperation and assistance. If such a claim is made and Contractor determines, in the exercise of its sole discretion, that an infringement may exist, Contractor shall have the right, but not the obligation, to procure for the City the right to keep using the allegedly infringing items, modify them to avoid the alleged infringement or replace them with non-infringing items.

5. **Representations and Warranties.**

- 5.1. Contractor Representations and Warranties.
 - 5.1.1. Authority. Contractor hereby warrants and represents that it has all right, power and authority to execute and deliver this Agreement and perform its obligations hereunder.

- 5.1.2. Professional Services. Contractor hereby warrants and represents that any and all services provided by Contractor pursuant to this Agreement shall be performed in a professional and workmanlike manner and, with respect to the installation of the Contractor System, subject to applicable law, in compliance with all specifications provided to Contractor by the City.
- 5.2. City Representations and Warranties.
 - 5.2.1. Authority. The City hereby warrants and represents that it has all right, power and authority to execute and deliver this Agreement and perform its obligations hereunder.
 - 5.2.2. Professional Services. The City hereby warrants and represents that any and all services provided by the City pursuant to this Agreement shall be performed in a professional and workmanlike manner.
- 5.3. LIMITED WARRANTIES. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, Contractor makes no warranties of any kind, express or implied, including, but not limited to, the warranties of merchantability and fitness for a particular purpose, with respect to the Contractor System or any RELATED EQUIPMENT or with respect to the results of the City's use of any of the foregoing. Notwithstanding anything to the contrary set forth herein, Contractor does not warrant that any of the Designated Intersection Approaches or the Contractor System WILL operate in the way the City selects for use, or that the operation or use thereof will be uninterrupted. THE CITY HEREBY ACKNOWLEDGES THAT THE Contractor SYSTEM MAY MALFUNCTION FROM TIME TO TIME, AND SUBJECT TO THE TERMS OF THIS AGREEMENT, Contractor SHALL DILIGENTLY ENDEAVOR TO CORRECT ANY SUCH MALFUNCTION IN A TIMELY MANNER.

6. Termination.

- 6.1. Termination. Either party shall have the right to terminate this Agreement immediately by written notice to the other if (i) the other party commits any breach of any of the provisions of this Agreement which breach is not remedied within forty-five (45) calendar days (or within such other time period as the City and Contractor shall mutually agree, which agreement shall not be unreasonably withheld or delayed) after written notice from the non-breaching party setting forth in reasonable detail the events which caused the breach, or (ii) State or federal law prohibits or substantially changes the operation of red light photo enforcement systems, (including legislation rendering Contractor systems evidence inadmissible in a court of competent jurisdiction) and (iii) following an audit, utilizing standard accounting procedures, of revenues generated during any six (6) consecutive month period after the installation date, the results thereof establish that City's net recovery after deducting all of system lease payments paid to Contractor and other costs incurred as determined by the City during the six month period is less than 100% of the amount of revenue collected during the period, then both parties shall meet and confer in good faith within thirty (30) days to make reasonable efforts to agree upon a new compensation formula. The

rights to terminate this Agreement given in this Section 6.1 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach of this Agreement.

6.2. Procedures Upon Termination. The termination of this Agreement shall not relieve either party of any liability that accrued prior to such termination. Except as set forth in Section 6.3, upon the termination of this Agreement, all of the provisions of this Agreement shall terminate and:

6.2.1. Contractor shall (i) immediately cease to provide services, including but not limited to work in connection with the construction or installation of Intersection Approaches and services in connection with the Redlight Photo Enforcement Program, (ii) promptly deliver to the City any and all Proprietary Property of the City provided to Contractor pursuant to this Agreement, (iii) promptly deliver to the City a final report to the City regarding the collection of data and the issuance of Citations in such format and for such periods as the City may reasonably request, and which final report Contractor shall update or supplement from time to time when and if additional data or information becomes available, (iv) promptly deliver to City a final invoice stating all fees and charges properly owed by City to Contractor for work performed and Citations issued by Contractor prior to the termination, and (v) provide such assistance as the City may reasonably request from time to time in connection with prosecuting and enforcing Citations issued prior to the termination of this Agreement.

6.2.2. The City shall (i) immediately cease using the Redlight Photo Enforcement Program, accessing the Contractor System and using any other Intellectual Property of Contractor, (ii) promptly deliver to Contractor any and all Proprietary Property of Contractor provided to the City pursuant to this Agreement, and (iii) promptly pay any and all fees, charges and amounts properly owed by City to Contractor for work performed and Citations issued by Contractor prior to the termination.

6.2.3 Unless the City and Contractor have agreed to enter into a new agreement relating to the Redlight Photo Enforcement Program or have agreed to extend the Term of this Agreement, Contractor shall remove any and all Equipment or other materials of Contractor installed in connection with Contractor's performance of its obligations under this Agreement, including but not limited to housings, poles and camera systems, and Contractor shall restore the Designated Intersection Approaches to substantially the same condition such Designated Intersection Approaches were in immediately prior to this Agreement.

6.3 Survival. Notwithstanding the foregoing, the definitions and each of the following shall survive the termination of this Agreement: Sections 4.2 (Reservation of Rights), 5.1 (Contractor Representations and Warranties), 5.2 (City Representations and Warranties), 5.3 (Limited Warranty), 7 (Confidentiality), 8 (Indemnification and Liability), 9 (Notices), 10 (Dispute

Resolution), 11.1 (Assignment), 11.17 (Applicable Law), 11.16 (Injunctive Relief; Specific Performance) and 11.18 (Jurisdiction and Venue), and those provisions, and the rights and obligations therein, set forth in this Agreement which either by their terms state, or evidence the intent of the parties, that the provisions survive the expiration or termination of the Agreement, or must survive to give effect to the provisions of this Agreement.

7. Confidentiality.

- 7.1. All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.
- 7.2. Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.
- 7.3. If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Contractor's conduct.
- 7.4. Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.
- 7.5. During the term of this Agreement and for a period of three (3) years thereafter, neither party shall disclose to any third person, or use for itself in any way for pecuniary gain, any Confidential Information learned from the other party during the course of the negotiations for this Agreement or during the Term of this Agreement unless otherwise required by law. Upon termination of this

Agreement, each party shall return to the other all tangible Confidential Information of such party. Each party shall retain in confidence and not disclose to any third party any Confidential Information without the other party's express written consent, except (a) to its employees who are reasonably required to have the Confidential Information, (b) to its agents, representatives, attorneys and other professional advisors that need to know such Confidential Information, provided that such parties undertake in writing (or are otherwise bound by rules of professional conduct) to keep such information strictly confidential, and (c) pursuant to, and to the extent of, a request or order by any Governmental Authority, including laws relating to public records.

8. Indemnification and Liability.

- 8.1. Indemnification by Contractor. Contractor hereby agrees to defend and indemnify the City and its affiliates, shareholders or other interest holders, managers, officers, elected officials, employees, directors, agents, representatives and successors, permitted assignees and each of their affiliates, and all persons acting by, through, under or in concert with them, or any of them (individually a "City Party" and collectively, the "City Parties") against, and to protect, save and keep harmless the City Parties from, and to pay on behalf of or reimburse the City parties as and when incurred for, any and all liabilities, obligations, losses, damages, penalties, demands, claims, actions, stop notices or mechanics liens, suits, judgments, settlements, costs, expenses and disbursements (including reasonable attorneys' accountants' and expert witnesses' fees) of whatever kind and nature (collectively, "Losses") which may be asserted against, imposed on or incurred by any City Party arising out of or related to (a) any material misrepresentation, inaccuracy or breach of any covenant, warranty or representation of Contractor contained in Agreement, or failure by Contractor to pay any supplier of materials or labor in connection with its performance of this Agreement; (b) the acts or omissions, or the willful misconduct of Contractor, its employees or agents which result in death or bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the willful misconduct of any City Party; and (c) the acts or omissions, whether negligent or willful, of the Contractor which result in a violation of any statute, code, ordinance, or other law that applies to automated traffic enforcement systems.
- 8.2. Indemnification by City. Subject to Section 8.3, the City hereby agrees to defend and indemnify Contractor and its affiliates, shareholders or other interest holders, managers, officers, directors, employees, agents, representatives and successors, permitted assignees and all persons acting by, through, under or in concert with them, or any of them (individually a "Contractor Party" and collectively, the "Contractor Parties") against, and to protect, save and keep harmless the Contractor Parties from, and to pay on behalf of or reimburse the Contractor Parties as and when incurred for, any and all Losses which may be imposed on or

incurred by any Contractor Party arising out of or in any way related to (a) any material misrepresentation, inaccuracy or breach of any covenant, warranty or representation of the City contained in this Agreement, (b) the negligent or willful misconduct of the City, its employees, contractors or agents which result in death or bodily injury to any natural person (including third parties) or any damage to any real or tangible personal property (including the personal property of third parties), except to the extent caused by the negligent or willful misconduct of any Contractor Party, (c) any claim, action or demand not caused by Contractor's failure to perform its obligations under this Agreement, or (d) any claim, action or demand challenging the City's use of the Contractor System or any portion thereof, the validity of the results of the City's use of the Contractor System or any portion thereof, or the validity of the Citations issued, prosecuted and collected as a result of the City's use of the Contractor System or any portion thereof.

8.3 Limited Liability. Notwithstanding anything to the contrary in this Agreement, neither party shall be liable to the other, by reason of any representation or express or implied warranty, condition or other term or any duty at common or civil law, for any indirect, incidental, special, lost profits or consequential damages, however caused and on any theory of liability arising out of or relating to this Agreement.

9. **Notices.** Any notices to be given hereunder shall be in writing, and shall be deemed to have been given (a) upon delivery, if delivered by hand, (b) three (3) days after being mailed first class, certified mail, return receipt requested, postage and registry fees prepaid, or (c) one Business Day after being delivered to a reputable overnight courier service, excluding the U.S. Postal Service, prepaid, marked for next day delivery, if the courier service obtains a signature acknowledging receipt, in each case addressed or sent to such party as follows:

9.1. Notices to Contractor:

Aaron M. Rosenberg, PhD
Vice President
Redflex Traffic Systems, Inc.
6047 Bristol Parkway
Culver City, CA 90230
Facsimile: (310) 878-0111

9.2. Notices to the City:

Leslie A. Keane
City Manager
City of Laguna Woods
24264 El Toro Road
Laguna Woods, CA 92637
Facsimile: (949) 639-0591

10. **Dispute Resolution.** Upon the occurrence of any dispute or disagreement between the parties hereto arising out of or in connection with any term or provision of this Agreement, the subject matter hereof, or the interpretation or enforcement hereof (the "Dispute"), the parties shall engage in informal, good faith discussions and attempt to resolve the Dispute. In connection therewith, upon written notice of either party, each of the parties will appoint a designated officer whose task it shall be to meet for the purpose of attempting to resolve such Dispute. The designated officers shall meet as often as the parties shall deem to be reasonably necessary. Such officers will discuss the Dispute. If the parties are unable to resolve the Dispute in accordance with this Section 10, and in the event that either of the parties concludes in good faith that amicable resolution through continued negotiation with respect to the Dispute is not reasonably likely, then the parties may mutually agree to submit to binding or nonbinding arbitration or mediation.

11. **Miscellaneous.**

11.1 Assignment. Neither party may assign all or any portion of this Agreement without the prior written consent of the other, provided, however, the City hereby acknowledges and agrees that the execution (as outlined in Exhibit F), delivery and performance of Contractor's rights pursuant to this Agreement shall require a significant investment by Contractor, and that in order to finance such investment, Contractor may be required to enter into certain agreements or arrangements ("Financing Transactions") with equipment lessors, banks, financial institutions or other similar persons or entities (each, a "Financial Institution" and collectively, "Financial Institutions"). The City hereby agrees that Contractor shall have the right to assign, pledge, hypothecate or otherwise transfer ("Transfer") its rights, or any of them, under this Agreement to any Financial Institution in connection with any Financing Transaction between Contractor and any such Financial Institution, subject to the City's prior written approval, which approval shall not be unreasonably withheld or delayed. The City further acknowledges and agrees that in the event that Contractor provides written notice to the City that it intends to Transfer all or any of Contractor's rights pursuant to this Agreement, and in the event that the City fails to provide such approval or fails to object to such Transfer within forty-five (45) business days after its receipt of such notice from Contractor, for the purposes of this Agreement, the City shall be deemed to have consented to and approved such Transfer by Contractor. Notwithstanding the above, this Agreement shall inure to the benefit of, and be binding upon, the parties hereto, and their respective successors or assigns.

11.2. Most Favored Customer. For the complete period covered by this Agreement, Contractor represents that all of the prices, terms, warranties, benefits and conditions granted by Contractor herein are comparable to or better than the same offered by it to any present or future Customer of Contractor within Orange County. In the event the City in its sole discretion determines otherwise, the City may compel Contractor to execute an amendment to this Agreement so that City may receive the same price, term, warranty, benefit or condition enjoyed by said present or future customer.

- 11.3. Relationship Between Contractor and the City. Nothing in this Agreement shall create, or be deemed to create, a partnership, joint venture or the relationship of principal and agent or employer and employee between the parties. The relationship between the parties shall be that of independent contractors, and nothing contained in this Agreement shall create the relationship of principal and agent or otherwise permit either party to incur any debts or liabilities or obligations on behalf of the other party (except as specifically provided herein).
- 11.4. Audit Rights. Each of parties hereto shall have the right to audit the books and records of the other party hereto ("Audited Party") solely for the purpose of verifying the payments, if any, payable pursuant to this Agreement. Any such audit shall be conducted upon not less than forty-eight (48) hours' prior notice to the Audited Party, at mutually convenient times and during the Audited Party's normal business hours. Except as otherwise provided in this Agreement, the cost of any such audit shall be borne by the non-Audited Party. In the event any such audit establishes any underpayment of any payment payable by the Audited Party to the non-Audited Party pursuant to this Agreement, the Audited Party shall promptly pay the amount of the shortfall. In the event any such audit establishes any overpayment by the Audited Party of any payment made pursuant to this Agreement, non-Audited Party shall promptly refund to the Audited Party the amount of the excess.
- 11.5. Force Majeure. Neither party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by Contractor, and unusually severe weather. The party whose performance is affected agrees to notify the other promptly of the existence and nature of any delay.
- 11.6. Entire Agreement. This Agreement represents the entire Agreement between the parties, and there are no other agreements (other than invoices and purchase orders), whether written or oral, which affect its terms. This Agreement may be amended only by a subsequent written agreement signed by both parties.
- 11.7. Severability. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.
- 11.8. Waiver. Any waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- 11.9. Construction. Except as expressly otherwise provided in this Agreement, this Agreement shall be construed as having been fully and completely negotiated and neither the Agreement nor any provision thereof shall be construed more strictly against either party.
- 11.10. Headings. The headings of the sections contained in this Agreement are included herein for reference purposes only, solely for the convenience of the parties

hereto, and shall not in any way be deemed to affect the meaning, interpretation or applicability of this Agreement or any term, condition or provision hereof.

- 11.11. Execution and Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and such counterparts together shall constitute only one instrument. Any one of such counterparts shall be sufficient for the purpose of proving the existence and terms of this Agreement, and no party shall be required to produce an original or all of such counterparts in making such proof.
- 11.12. Covenant of Further Assurances. All parties to this Agreement shall, upon request, perform any and all acts and execute and deliver any and all certificates, instruments and other documents that may be necessary or appropriate to carry out any of the terms, conditions and provisions hereof or to carry out the intent of this Agreement.
- 11.13. Remedies Cumulative. Each and all of the several rights and remedies provided for in this Agreement shall be construed as being cumulative and no one of them shall be deemed to be exclusive of the others or of any right or remedy allowed by law or equity, and pursuit of any one remedy shall not be deemed to be an election of such remedy, or a waiver of any other remedy.
- 11.14. Binding Effect. This Agreement shall inure to the benefit of and be binding upon all of the parties hereto and their respective executors, administrators, successors and permitted assigns.
- 11.15. Compliance with Laws. Nothing contained in this Agreement shall be construed to require the commission of any act contrary to law, and whenever there is a conflict between any term, condition or provision of this Agreement and any present or future statute, law, ordinance or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the term, condition or provision of this Agreement affected shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law, provided that such construction is consistent with the intent of the Parties as expressed in this Agreement.
- 11.16. No Third Party Benefit. Nothing contained in this Agreement shall be deemed to confer any right or benefit on any Person who is not a party to this Agreement.
- 11.17. Injunctive Relief; Specific Performance. The parties hereby agree and acknowledge that a breach of Sections 4.1 (License), 4.3 (Restricted Use) or 7 (Confidentiality) of this Agreement shall result in severe and irreparable injury to the other party, which injury can not be adequately compensated by an award of money damages, and the parties therefore agree and acknowledge that they shall be entitled to injunctive relief in the event of any breach of any material term, condition or provision of this Agreement, or to enjoin or prevent such a breach, including without limitation an action for specific performance hereof.
- 11.18. Applicable Law. This Agreement shall be governed by and construed in all respects solely in accordance with the laws of the State of California, United States of America.
- 11.19. Jurisdiction and Venue. Any dispute arising out of or in connection with this Agreement shall be submitted to the exclusive jurisdiction and venue of the courts

located in the County of Orange, California, and both parties specifically agree to be bound by the jurisdiction and venue thereof.

12. **Conflict of Interest.**

- 12.1 Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.
- 12.2 City understands and acknowledges that Contractor is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Contractor is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.

CITY OF LAGUNA WOODS

REDFLEX TRAFFIC SYSTEMS, INC.

By: Leslie A. Keane
Leslie A. Keane
City Manager

By: Aaron M. Rosenberg, PhD
For: Aaron M. Rosenberg, PhD
Vice President

Bruce Higgins
PRESIDENT & CEO
REDFLEX TRAFFIC SYSTEMS INC.

ATTEST:

By: Susan M. Condon
Susan M. Condon
City Clerk

APPROVED AS TO FORM:

By: Stephen A. McEwen
Stephen A. McEwen
Assistant City Attorney

EXHIBIT A
Designated Intersection Approaches

The contract is for the implementation of up to 2 intersections with up to 6 approaches. Identification of enforced intersection will be as directed by the City, as warranted by community safety and traffic needs, as well as engineering intersection analysis.

The primary intersections under consideration for automated enforcement include, but are not limited to:

1.	Moulton Parkway	El Toro Road
2.	Moulton Parkway	Leisure World Gate 12

EXHIBIT B
Construction and Installation Obligations

Timeframe for Installation

Contractor will have each specified intersection installed and activated in phases in accordance with an implementation plan to be mutually agreed to by Contractor Traffic Systems and the Municipality.

Contractor will use reasonable commercial efforts to install the system in accordance with the schedule set forth in the implementation plan that will be formalized upon project commencement.

Contractor will use reasonable commercial efforts to install and activate the intersections listed in Exhibit A within sixty (60) days of the date of this Agreement. Contractor will conduct video monitoring, of intersections and/or approaches, analyze the number of violations, and provide the City with such data and analysis within 30 days of receiving a request for same from the City. Contractor will use reasonable efforts to install and activate all other intersections and/or approaches within 60 days of issuance of a Notice to Proceed (Change Order) by the City. The City agrees that the estimated timeframe for installation and activation are subject to conditions beyond the control of Contractor and are not guaranteed.

1. Contractor Obligations. Contractor shall do or cause to be done each of the following (in each case, unless otherwise stated below, at Contractor's sole expense):
 - 1.1. Appoint the Contractor Project Manager and a project implementation team consisting of between one (1) and four (4) people to assist the Contractor Project Manager;
 - 1.2. Request current "as-built" engineering drawings for the Designated Intersection Approaches (the "Drawings") from the Assistant City Manager;
 - 1.3. Develop and submit to the City for approval construction and installation specifications in reasonable detail for the Designated Intersection Approaches, including but not limited to specifications for all radar sensors, pavement loops, electrical connections and traffic controller connections, as required;
 - 1.4. Seek approval from the relevant Governmental Authorities having authority or jurisdiction over the construction and installation specifications for the Designated Intersection Approaches (collectively, the "Approvals"), which will include compliance with City permit applications.
 - 1.5. Finalize the acquisition of the Approvals;
 - 1.6. Submit to the City a public awareness strategy for the City's consideration and approval, which strategy shall include required signage and recommended media and educational materials ("Materials") for the City's approval or amendment (the "Awareness Strategy");
 - 1.7. Develop the Redlight Violation Criteria in consultation with the City;
 - 1.8. Develop the Enforcement Documentation for approval by the City, which approval shall not be unreasonably withheld;

- 1.9. Complete the installation and testing of all necessary Equipment, including hardware and software, at the Designated Intersection Approaches (under the supervision of the City);
 - 1.10. Cause an electrical sub-contractor to complete all reasonably necessary electrical work at the Designated Intersection Approaches, including but not limited to the installation of all related Equipment and other detection sensors, poles, cabling, telecommunications equipment and wiring, which work shall be performed in compliance with all applicable local, state and federal laws and regulations;
 - 1.11. Install and test the functionality of the Designated Intersection Approaches with the Contractor System and establish fully operational Violation processing capability with the Contractor System;
 - 1.12. Implement the use of the Contractor System at each of the Designated Intersection Approaches;
 - 1.13. Deliver the Materials to the City;
 - 1.14. Issue "warning letters" for Authorized Violations which occurred at each Designated Intersection Approach during the Warning Period;
 - 1.15. During the Warning Period, Contractor shall provide training (i) for up to fifteen (15) personnel of the City, including but not limited to the persons who City shall appoint as Authorized Officers and other persons involved in the administration of the Redlight Photo Enforcement Program, (ii) for at least sixteen (16) hours in the aggregate, (iii) regarding the operation of the Contractor System and the Redlight Photo Enforcement Program, which training shall include training with respect to the Contractor System and its operations, strategies for presenting Violations Data in court and judicial proceedings and a review of the Enforcement Documentation;
 - 1.16. Interact with court and judicial personnel to address issues regarding the implementation of the Contractor System, the development of a subpoena processing timeline that will permit the offering of Violations Data in court and judicial proceedings, the establishment of a court hearing schedule for adjudicating upon Citations, and coordination between Contractor, the City and juvenile court personnel; and
 - 1.17. Provide reasonable public relations resources and media materials to the City in the event that the City elects to conduct a public launch of the Redlight Photo Enforcement Program.
 - 1.18. Provide services as included in the Contractor's proposal to the City dated May 4, 2005 as set forth in Exhibit H.
2. City Obligations. The City shall do or cause to be done each of the following (in each case, unless otherwise stated below, at City's sole expense):
- 2.1. Appoint the Project Manager and Authorized Officer;
 - 2.2. Assist Contractor in obtaining the Drawings from the relevant Governmental Authorities;
 - 2.3. Notify Contractor of any specific requirements relating to the construction and installation of any Intersection Approaches or the implementation of the Redlight Photo Enforcement Program;

- 2.4. Provide assistance to Contractor in obtaining access to the records data of the Department of Motor Vehicles in Contractor's capacity as an independent contractor to the City;
- 2.5. Assist Contractor in seeking the Approvals;
- 2.6. Provide reasonable access to the City's properties and facilities in order to permit Contractor to install and test the functionality of the Designated Intersection Approaches and the Redlight Photo Enforcement Program;
- 2.7. Provide reasonable access to the personnel of the City and reasonable information about the specific operational requirements of such personnel for the purposes of performing training;
- 2.8. Provide the services of necessary personnel during the Warning Period;
- 2.9. Seek approval or amendment of Awareness Strategy and provide written notice to Contractor with respect to the quantity of media and program materials (the "Materials") that the City will require in order to implement the Awareness Strategy during the period commencing on the date on which Contractor begins the installation of any of the Designated Intersection Approaches and ending one (1) month after the Installation Date;
- 2.10. Assist Contractor in developing the Redlight Violation Criteria; and
- 2.11. Seek approval of the Enforcement Documentation.

EXHIBIT C
Maintenance

1. All repair and maintenance of camera systems and all related equipment will be the sole responsibility of Contractor, including but not limited to maintaining the casings of the cameras included in the Contractor System and all other Equipment in reasonably clean and graffiti-free condition.
2. Contractor shall not open the Traffic Signal Controller Boxes without a representative of City present.
3. The provision of all necessary electrical and telephone services to the Designated Intersection Approaches will be the sole responsibility of the City.
4. The Contractor Project Manager (or a reasonable alternate) shall be available to the Project Manager each day, on a reasonable best efforts basis.

EXHIBIT D
Compensation and Pricing

Contractor shall provide City with a full turnkey automated redlight photo enforcement system at the two intersections identified in Exhibit A with no upfront costs and no out of pocket costs for the City.

Compensation shall be in the form of a Fixed Fee of \$5,170 per month per Intersection Approach without right on red violation enforcement, or \$5,670 per month per Intersection Approach with right on red violation enforcement, beginning at the conclusion of the 30 day Warning Period and continuing until contract expiration or termination, in accordance with the provisions as set forth herein. Contractor shall invoice the City monthly as of the last date of the month. City shall have 90 days to pay such invoices. The monthly fee shall be reduced on a prorated basis for any hours or days when any system is not fully operational.

If City's costs exceed revenues received from Redlight citation fines, Contractor shall lower its monthly fixed fee to ensure cost neutrality. If there is a discrepancy, Contractor shall issue a "Cash Back Refund" to City in order to provide total cost neutrality for the term of the Agreement.

Contractor construction will be able to utilize existing conduit for installation where space is available. Where it is determined by both parties that additional conduit is necessary, the cost shall be born by Contractor, however, the City shall provide at no cost the necessary encroachment permits.

EXHIBIT E
Additional Rights and Obligations

Contractor and the City shall respectively have the additional rights and obligations set forth below:

1. Contractor shall assist the City in public information and education efforts, including but not limited to the development of artwork for utility bill inserts, press releases and schedules for any public launch of the Redlight Photo Enforcement Program (actually print and production costs are the sole responsibility of the City).
2. The Contractor shall be solely responsible for the fabrication of any signage, notices or other postings required pursuant to any law, rule or regulation of any Governmental Authority (“Signage”), including but not limited to the Vehicle Code, and shall assist in determining the placement of such Signage, and the Contractor hereby acknowledges and agrees that the Contractor shall be solely responsible for installing such Signage.
3. The City shall be solely responsible for the installation of LED lights at enforced intersections.
4. The Contractor Project Manager, the Authorized Officer, and the Project Manager shall meet on a weekly basis during the period commencing as of the date of execution hereof and ending on the Installation Date, and on a monthly basis for the remainder of the Term, at such times and places as the Contractor Manager and the City Manager shall mutually agree in the City of Laguna Woods.
5. The City shall not access the Contractor System or use the Redlight Photo Enforcement Program in any manner other than prescribed by law and which restricts or inhibits any other Person from using the Contractor System or the Contractor Photo Enforcement Program with respect to any Intersection Approaches constructed or maintained by Contractor for such Person, or which could damage, disable, impair or overburden the Contractor System or the Contractor Photo Enforcement Program, and the City shall not attempt to gain unauthorized access to (i) any account of any other Person, (ii) any computer systems or networks connected to the Contractor System, or (iii) any materials or information not intentionally made available by Contractor to the City by means of hacking, password mining or any other method whatsoever, nor shall the City cause any other Person to do any of the foregoing.
6. The City shall maintain the confidentiality of any username, password or other process or device for accessing the Contractor System or using the Redlight Photo Enforcement Program.
7. Each of Contractor and the City shall advise each other in writing with respect to any applicable rules or regulations governing the conduct of the other on or with respect to the property of such other party, including but not limited to rules and regulations relating to the safeguarding of confidential or proprietary information, and when so advised, each of Contractor and the City shall obey any and all such rules and regulations.
8. The City shall promptly reimburse Contractor for the cost of repairing or replacing any portion of the Contractor System, or any property or equipment related thereto, damaged directly or indirectly by the City, or any of its employees, contractors or agents.

9. The City and Contractor shall both comply with any provisions of state and/or local law pertaining to automated traffic enforcement systems, including, but not limited to, obligations pertaining to the collection, storage, confidentiality, and destruction of Violations Data.

EXHIBIT F
Insurance

1. Insurance Requirements. Contractor shall provide and maintain insurance, acceptable to the City Manager or City Counsel, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII. Contractor shall provide the following scope and limits of insurance:
 - 1.1. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - 1.1.1. Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).
 - 1.1.2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the City.
 - 1.1.3. Workers' Compensation insurance as required by the Labor Code of State of California and Employer's Liability insurance and covering all persons providing services on behalf of the Contractor and all risks to such persons under this Agreement.
 - 1.1.4. Errors and omissions liability insurance appropriate to the Contractor's profession.
 - 1.2. Minimum Limits of Insurance. Contractor shall maintain limits of insurance no less than:
 - 1.2.1. General Liability: \$1,000,000 general aggregate for bodily injury, personal injury and property damage.
 - 1.2.2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
 - 1.2.3. Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.
 - 1.2.4. Errors and Omissions Liability: \$1,000,000 per occurrence.
2. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:
 - 2.1. All Policies. Each insurance policy required by this paragraph 15 shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the Assistant City Manager.
 - 2.2. General Liability and Automobile Liability Coverage:

- 2.2.1. City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insured as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.
 - 2.2.2. Contractor's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Contractor's insurance.
 - 2.2.3. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - 2.2.4. Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.
 - 2.2.5. Workers' Compensation and Employer's Liability Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Contractor.
3. Other Requirements. Contractor agrees to deposit with City, at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Contractor furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.
 - 3.1. Contractor shall furnish certificates and endorsements from each subcontractor identical to those Contractor provides.
 - 3.2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

- 3.3. The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.

EXHIBIT G
City's Request for Proposal, issued April 11, 2005